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May 26th, 1959

COCOM Document No. 2869.94

COORDINATING COMMITTEE

RECORD OF DISCUSSION

ON

REVIEW OF THE STRATEGIC EXPORT CONTROLS - EXCEPTIONS PROCEDURES

May 14th and 25th, 1959.

Present: Belgium (Luxembourg), Denmark, France, Germany, Italy, Japan, Netherlands, United Kingdom, United States.

References: CH/1547, COCOM 471 (Revised), 1347, 1473, 2869.5, 2869.13, 2869.55, 2869.62, 2869.75, 2869.77, 2869.79, 2860.81, 2869.83, 2869.86, 2869.88, 2869.89, 2869.92, 2869.93, 3230, 3338, Secretariat Paper No. 104.

Procedure for submission of exceptions (Secretariat Paper No. 104, paragraphs 4 - 10).

1. The CHAIRMAN invited Delegates to give the views of their authorities on his proposal concerning the Guide for the submission of exceptions requests (COCOM 2869.93, paragraph 4).

2. The UNITED KINGDOM Delegate said that his authorities agreed in principle that there was no further need for a Guide and proposed that the text suggested by the Chairman for the last lines of paragraph 4 of Secretariat Paper No. 104 should be amended as follows:

"... until the Committee had met to consider a written statement containing the information necessary for the Committee to reach a decision in accordance with the principles and procedures on exceptions to the security controls."

3. The UNITED STATES Delegate said that his authorities could agree in principle that there need be no Guide and commented that the United Kingdom proposal for the revision of paragraph 4 to Secretariat Paper No. 104 seemed to be a satisfactory basis for the solution of the problem.

Part B General Principles (Secretariat Paper No. 104, paragraph 11).

4. The UNITED KINGDOM Delegate commented on the German proposal concerning paragraph 11(e) of Secretariat Paper No. 104 (COCOM 2869.93, paragraph 7) and said that his authorities proposed the following modification to the German text:

"Provided that no advanced technological know-how in the sense of criterion (b) is involved, evidence of harmless end-use is one of the factors which may be taken into account."

5. The BELGIAN and UNITED STATES Delegates said that their authorities could accept the German proposal concerning the second sentence in paragraph 11(e).

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6. The COMMITTEE agreed, after further discussion, that the first sentence of paragraph 11(e) should be retained although some Delegations expressed the opinion that it was superfluous.

Notes to Part B (Secretariat Paper No. 104, paragraph 16).

7. The CHAIRMAN referred to sub-paragraphs 16(b) and (c) of Secretariat Paper No. 104. There was already agreement to extend the accident of definition procedure to Munitions List items (COCOM 2869.62, paragraph 89) and the Committee had in the past dealt with exceptions requests concerning minimal shipments of both Munitions and Atomic Energy List items. In order to codify this procedure, he suggested that the present sub-paragraphs 16(b) and (c) should be deleted and the following text should form a new sub-paragraph 16(b):

"The exceptions contemplated in paragraphs 13, 14 and 15 above do not apply to the Munitions List or the Atomic Energy List. The Committee may, however, concur in minimal exceptions for items on these lists after prior consultation."

8. The UNITED KINGDOM Delegate stated that his authorities considered that all three types of minimum shipments exceptions should apply, with prior consultation, to items on the Munitions and Atomic Energy Lists. He felt that the best way of writing this into the procedures was to amend sub-paragraph 13(b) to read:

"Exports of List I items exceeding \$150 in value and of any Munitions List or Atomic Energy List item should be subject to the Committee's prior consultation procedure."

to amend sub-paragraph 14(b) to read:

"Export of embargoed items ... "

and to amend sub-paragraph 15(b) to read:

"Export of embargoed items other than those in sub-paragraph (a) above ... ".

There would then be no need to retain the present sub-paragraphs 16(b) and (c).

9. The UNITED STATES Delegate commented that there was a different philosophy underlying the Munitions and Atomic Energy Lists and that was why they had not been, and should not be, treated in the same way as List I as far as exceptions procedures were concerned. To illustrate his point, he did not think that there had ever been a Munitions List servicing case, while Atomic Energy List cases that might be encompassed by the de minimis procedure had been very rare and had concerned Poland almost exclusively.

10. The GERMAN Delegate asked whether cases submitted under the Chairman's proposed wording would be considered as ad hoc requests? His authorities suggested that under sub-paragraph 16(c) the minimum shipments procedures should be extended, with prior consultation in all cases, to certain Atomic Energy List chemicals which they had proposed for deletion during the 1958 review. These chemicals were as follows: Atomic Energy List Item 6 - tetrafluoroethylene, 7 - trifluoroethylene, 14 - fluorine, 15 - chlorine trifluoride, 17 - fluorinated hydrocarbons.

11. The BELGIAN, FRENCH and GERMAN Delegates accepted the United Kingdom proposal ad referendum.

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12. The CHAIRMAN, after further discussion, summed up the discussion by saying that Delegates, recognising that a different philosophy lay behind the concept of the Munitions and Atomic Energy List, should seek the views of their authorities on how exceptions for items on these two Lists could best be codified in the Committee's procedures. They should also consider the German proposal concerning certain Atomic Energy List chemicals (paragraph 10 above).

13. The COMMITTEE agreed to continue the discussion on May 28th.

14. On May 25th the FRENCH Delegate confirmed his ad referendum acceptance of the United Kingdom proposal (paragraph 11 above).

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